



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**REGION 8**  
**999 18<sup>TH</sup> STREET - SUITE 300**  
**DENVER, CO 80202-2466**  
**Phone 800-227-8917**  
**<http://www.epa.gov/region08>**

**March 6, 2003**

Ref: 8ENF-T

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Donald M. Russell, Chairman  
Big Horn County Commissioner  
420 W. C Street  
Basin, Wyoming 82410

Re: Emergency Administrative  
Order under Section 1431 SDWA  
Docket No. **SDWA-08-2003-0007**

Dear Mr. Russell:

Pursuant to Section 1414(a)(2)(B) of the 1996 amendments to the Safe Drinking Water Act (SDWA), the Environmental Protection Agency (EPA) is required to notify an appropriate locally elected official of any action taken in a State that does not have primary enforcement authority for public water systems. The State of Wyoming does not have primary enforcement authority for public water systems under the SDWA.

An Emergency Administrative Order (Order) is being issued under Section 1431 of the SDWA to the Antelope Butte Ski Area in Sheridan County, Wyoming. The Order is based on information that was provided to EPA that the public water system is using an unfiltered surface water source for culinary and drinking water uses. In its current state, the water system may pose an imminent and substantial endangerment to the health of persons served by the system.



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A copy of this Order is enclosed for your information. The Order does not require any response or action by the County Commission. If you have any questions regarding this Order, please contact Dennis Jaramillo at (800) 227-8917 extension 6203.

Sincerely,

**SIGNED**

Diane L. Sipe, Director  
Technical Enforcement Program  
Office of Enforcement, Compliance  
And Environmental Justice

Enclosure



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**March 6, 2003**

Ref: 8ENF-T

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Mr. Emerson W. Scott III, President  
Antelope Butte Corporation  
PO Box 450  
Dayton, Wyoming 82836

RE: Emergency Administrative  
Order under Section 1431 SDWA  
Docket No **SDWA-08-2003-0007**  
PWS ID #5600361

Dear Mr. Scott:

Enclosed is an Emergency Administrative Order issued under Section 1431 of the Safe Drinking Water Act (SDWA), 40 U.S.C. § 300i. The Order is based on information provided to the Environmental Protection Agency (EPA) that the Antelope Butte Ski Area ("Antelope Butte") is using an unfiltered, undisinfected surface water source since there were unforeseen problems with the regular drinking source freezing. This Order supplements the boil water notice issued by the Bighorn County Health Department on or about March 5, 2003. In its current state, the water system may pose an imminent and substantial endangerment to the health of the Antelope Butte customers.

The enclosed Order sets forth the actions that you must take to ensure that the people served by the water supply are provided with safe drinking water. You must immediately take the required actions. Penalties for failing to comply are set forth in the Order. The Order requires, among other items, that Antelope Butte conduct the following activities: (1) within 24 hours, provide a written intent to EPA to comply with the Order; (2) provide bottled water to all users of the system; (3) submit and implement a plan to provide a permanent supply of water which meets the requirements of 40 C.F.R. part 141; (4) disinfect the system and maintain a disinfection residual; (5) conduct increased bacteriological monitoring prior to reopening with the permanent supply of water; (6) monitor chlorine residual; (7) provide a public notice and



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boil water notice within 24 hours; and (7) report violations to EPA.

EPA is committed to working with you and the County to ensure the safety of the ski area's water supply. If you have any questions or wish to discuss this Order, please contact Dennis Jaramillo at (800) 227-8917 X6203. If you are represented by an attorney or have legal questions, please call Michelle Marcu, Enforcement Attorney, at (800) 227-8917 X6921.

We urge your prompt attention to this matter.

Sincerely,

**SIGNED**

Diane L. Sipe, Director  
Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

Enclosure

cc: Larry Robbins, WYDEQ  
Karl Musgrave, Wyoming State Epidemiologist  
Loren Poppert, Permit Administrator

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

IN THE MATTER OF )  
)  
Antelope Butte Corporation )  
PO Box 450 )  
Dayton, WY 82836 )  
PWS ID # 56000361 )  
)  
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)  
)  
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)  
Respondent )  
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)  
Proceedings under section 1431 )  
of the Safe Drinking Water Act, ) Docket No. **SDWA-08-2003-0007**  
42 U.S.C. § 300i )  
)  
)

## I. STATUTORY AUTHORITY

The following Findings are made and Order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by section 1431 of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300i, as properly delegated to the Supervisors of the Technical and Legal Enforcement Programs of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8.

## II. JURISDICTION

- A. EPA has jurisdiction to issue this Order pursuant to section 1431 of the Act, 42 U.S.C. § 300i.
- B. EPA has primary enforcement responsibility for the Act

because the State of Wyoming does not have primary enforcement authority for public water systems.

### **III. FINDINGS**

- A. Antelope Butte Corporation (Respondent), is a corporation under the laws of the state of Wyoming as of December 15, 1986 and therefore a "person" within the meaning of section 1401(12) of the Act, 42 U.S.C. § 300f(12) and 40 C.F.R. § 141.2.
- B. Respondent owns and/or operates the Antelope Ski Area Water System located in Bighorn County, Wyoming for the provision to the public of piped water for human consumption.
- C. Respondent's Water System has at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents and is therefore a "non-community public water system" within the meaning of section 1401(4) of the Act, 42 U.S.C. § 300f(4) and 40 C.F.R. § 121.2.
- D. Respondent owns and/or operates a public water system and is therefore a "supplier of water" within the meaning of section 1401(5) of the Act, 42 U.S.C. § 300f(5) and 40 C.F.R. § 141.2, and is

therefore subject to the requirements of part B of the Act, 42 U.S.C. § 300g, and its implementing regulations, 40 C.F.R. part 141.

- E. According to a March 18, 1998, survey conducted by an agent for EPA, Respondent operates a system that is usually supplied by a spring source. The system serves an average of 170 persons daily and is open from December 1<sup>st</sup> through March 31 of each year.
- F. EPA has determined, based on information provided by the Wyoming Department of Environmental Quality and the Department of Agriculture, that the source of water currently being used in the drinking water system is an unfiltered and undisinfected surface water source that may present an imminent and substantial endangerment to the health of persons, potentially allowing the introduction of fecal contamination into the system.
- G. The Big Horn County Health Department issued a boil order on or about March 5, 2003.
- H. This Order and the requirements set forth herein are necessary to ensure adequate protection of public health based on EPA's primary enforcement responsibility for the Act in Wyoming notwithstanding the initial efforts taken by State and Local officials.

By issuing this Order, EPA supports and seeks to continue the initial efforts to protect public health by County officials.

I. Local and State Authorities have not taken further actions to protect public health because they do not have authority under the Act.

J. On or about March 5, 2003, EPA consulted with State and Local authorities regarding the information upon which this Order is based.

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#### **IV. ORDER**

\_\_\_\_Based on the foregoing Findings, and pursuant to section 1431 of the Act, 42 U.S.C. § 300i, IT IS ORDERED:

##### **A. INTENT TO COMPLY**

1. Within 24 hours of receipt of this Order, Respondent shall notify EPA in writing of its intention to comply with the terms of this Order.
2. The written response shall include a general plan for compliance with each of the elements of this Order.

##### **B. DISINFECTION**

1. Upon receipt of this Order, Respondent shall institute manual chlorination of the cistern at a frequency so as to continually maintain a



disinfection chlorine residual of a least 0.2 milligrams per liter (mg/l) free chlorine throughout the distribution system.

2. Upon the receipt of this Order, Respondent must maintain a chlorine residual of at least 0.2mg/l. To ensure at least a 0.2 mg/l chlorine residual, Respondent shall monitor for chlorine residual daily at the following locations within the distribution system: the kitchen sink and at least one sink in each restroom. This chlorine residual monitoring must be continued daily until the system closes for the season.

**C. BOTTLED WATER**

1. Upon the receipt of this Order, Respondent shall provide up to 2 liters for each visitor upon request, a continuous supply of bottled drinking water and ice (at no cost to the consumer) from a licensed bottled water distributor, licensed by the State of Wyoming Department of Agriculture, Consumer Health Services Program, to all water users of the Antelope Butte Water System, until notification is received from EPA that bottled water is no longer necessary.

2. Within 24 hours of receipt of this Order, Respondent shall mail a certification to EPA of compliance with paragraph IV.C.1. above.
3. If Respondent chooses to supply spring water to consumers in sanitized coolers, Respondent must ensure that all applicable requirements of the Wyoming Department of Agriculture County Health Services Program are followed.

**D. COMPLIANCE MEASURES**

1. Within 60 days of the effective date of this Order, Respondent shall submit a plan to EPA and WDEQ to ensure that the water system will consistently and reliably provide safe drinking water to the public. The plan shall include the following information:
  - a. Proposed system modifications to achieve and maintain compliance with the Safe Drinking Water Act. If the spring is to be used as the permanent water supply for Antelope Butte, the plan must include pipeline system renovation that will prevent the pipeline from freezing; and addresses treatment requirements as determined by EPA after MPA

testing required in IV.D.5;

- b. If Antelope Butte intends to ever utilize the surface water system it must provide plans to install disinfection and filtration per 40 C.F.R. § 141.70 or meet the filtration avoidance criteria.
  - c. Estimated costs of any modifications; and
  - d. A schedule for construction of the project.  
The schedule shall include specific milestone dates and a final compliance date. The plans must be approved by the Wyoming Department of Environmental Quality (WDEQ) and EPA before construction can commence. The compliance schedule shall have a completion date prior to the 2003/2004 season.
- 2. The schedule for construction and completion of modifications will be incorporated into this Order upon written approval by EPA and WDEQ.
  - 3. Prior to opening for the 2003/2004 season, Respondent shall flush and disinfect all storage tanks and the distribution system and collect safe

bacteriological samples according to Section E, below.

4. Respondent shall submit monthly reports to EPA on the status of all corrective measures. Each report shall include a description of any activity conducted on the public water supply including a specific listing and status of each item identified in Section IV.D.1. above. Reports shall be postmarked no later than the 15<sup>th</sup> of each month, with the first report postmarked no later than April 15, 2003.
5. The Surface Water Treatment Rule (SWTR) requires that each ground water source, which includes wells, infiltration galleries and springs, be assessed to determine if it is influenced by surface water. If a ground water source is determined to be under the direct influence of surface water the system must either provide filtration or meet the filtration avoidance criteria (40 C.F.R. § 141.70). Based upon the hydrogeological features of your spring, EPA has determined that there is strong possibility that the spring is under direct influence of surface

water. For a final determination, Microscopic Particulate Analysis (MPA) is needed from the spring. If Respondent chooses to use the spring when opening for the 2003/2004 season, two to three samples from the raw (untreated) spring source must be collected as soon as the pipeline from the spring is unfrozen or the spring water is otherwise available, but in no event shall the MPAs be taken later than June 15, 2003. Copies of the test results must be submitted to EPA for review within 15 days of receipt from your laboratory. If results from the first two MPAs are inconclusive, EPA may require a third MPA.

**E. MONITORING REQUIREMENTS**

1. Respondent shall conduct bacteriological monitoring as follows prior to operating the Antelope Butte Ski Area as a public water system for the 2003/2004 season:
  - a. Collect three (3) consecutive daily special purpose samples to determine compliance with the maximum contaminant levels ("MCLs") for total coliform bacteria as stated in 40 C.F.R. § 141.63. Respondent shall report

analytical results, via phone or fax, to EPA immediately upon receiving the results.

Respondent shall continue daily monitoring and not provide water to the public until receiving written notice from EPA.

2. After Respondent collects three (3) consecutive "safe" special purpose bacteriological samples, and receives written notice from EPA, Respondent shall conduct weekly bacteriological sampling to determine compliance with the MCLs for total coliform bacteria as stated in 40 C.F.R. § 141.63.
3. Following four consecutive weekly safe bacteriological results, EPA will notify Respondent in writing that weekly bacteriological sampling is no longer required. Thereafter, Respondent shall conduct monthly bacteriological monitoring to determine compliance with the MCLs for total coliform bacteria as stated in 40 C.F.R. § 141.63 until EPA notifies Respondent in writing that monthly bacteriological sampling is no longer required.
4. Thereafter, Respondent shall comply with all bacteriological monitoring requirements for non-

community water systems found at  
40 C.F.R. § 141.21 to determine compliance with  
the MCLs as stated in 40 C.F.R. § 141.63.

5. Respondent shall report all bacteriological analytical results to EPA within 10 days of the end of each monitoring period, as required by 40 C.F.R. § 141.31(a), except for total coliform MCL violations which shall be reported to EPA no later than the end of the next business day as required by 40 C.F.R. § 141.21(g) (1)
6. Upon the effective date of this Order, Respondent shall comply with all repeat sampling requirements specified in 40 C.F.R. § 141.21(b). This requires that Respondent take no fewer than 4 repeat samples within 24 hours of being notified of a total coliform positive routine sample. Each repeat sample is to be analyzed for total coliform bacteria. At least one repeat sample must be taken from each of the following: a) the tap where the original total coliform positive sample was taken, b) from within 5 service connections upstream of the original total coliform positive

tap, and c) from within 5 service connections downstream from the original total coliform positive tap; and d) from any location in the distribution system. Respondent shall report analytical results to EPA within the first 10 days following the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).

**F. PUBLIC NOTICE**

1. No later than 24 hours after receipt of this Order, Respondent shall provide public notice to the affected area. This public notice shall be given in one or more of the following forms of delivery: (1) Appropriate broadcast media (such as radio and television); (2) Posting of the notice in conspicuous locations throughout the area served by the water system, including, but not limited to, posting over every faucet and drinking fountain at the water system; (3) Hand delivery of the notice to persons served by the water system; or (4) Another delivery method approved in writing by EPA. Respondent shall comply with any additional public notification requirements that may be established by EPA. Upon the effective



date of this Order, Respondent shall comply with the publication notification requirements at 40 C.F.R. § 141.201 et seq. following any future NPDWR violation. Respondent shall submit a copy of the public notice to EPA within 10 days of completion of the public notice, as required by 40 C.F.R. § 141.31(d).

2. The public notice shall include the following information:
  - a. All requirements as specified in 40 C.F.R. § 141.205 including:
    - i. A description of the situation, including the contaminant of concern, and the contaminant level;
    - ii. When the violation or situation occurred;
    - iii. Any potential adverse health effects from the violation or situation (see section b. below);
    - iv. The population at risk, including subpopulations particularly vulnerable if exposed to the contaminant in their drinking water;

- v. Whether alternative water supplies should be used (see section b. below);
  - vi. What actions consumers should take, including when they should seek medical help, if known (see section b. below);
  - vii. What the system is doing to correct the violation or situation;
  - viii. When the water system expects to return to compliance or resolve the situation;
  - ix. The name, business address, and phone number of the water system owner, operator, or designee of the public water system as a source of additional information concerning the notice; and
  - x. A statement to encourage the notice recipients to distribute the public notice to other persons served.
- b. Mandatory health effects language as specified in 40 C.F.R. § 141.205(d)(1), Appendix B to Subpart Q of part 141 must be included in the public notification. This language is as follows:
- Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and

associated headaches.

**"UNTIL FURTHER NOTIFIED, ALL WATER USED FOR DRINKING, BRUSHING TEETH, COOKING, MAKING ICE, WASHING DISHES, OR USED FOR HUMAN CONSUMPTION, ETC., SHALL BE BOILED FOR AT LEAST FIVE (5) MINUTES, AT A ROLLING BOIL, BEFORE USE, ALL STORED WATER, DRINK OR ICE MADE RECENTLY FROM THIS SUPPLY SHALL BE DISCARDED."**

3. Respondent must continue to provide the boil water notice and public notice until EPA Region 8 provides written notice to discontinue.

#### **G. REPORTING REQUIREMENTS**

1. Upon receipt of this Order, Respondent shall notify EPA within two hours any time the chlorine residual falls below 0.2mg/l at any location.
2. Include as part of the monthly reporting requirements under paragraph V.D.4, above. Respondent shall include all disinfection residual monitoring results from the previous month.
3. Except where a different reporting period is specified in this Order, upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.31(b) by reporting any failure to comply with any National Primary Drinking Water Regulation (40 C.F.R. Part 141) to EPA within 48

hours.

4. Unless otherwise specified, all reports and notifications herein required shall be submitted to:

Dennis Jaramillo  
US Environmental Protection Agency  
Drinking Water Branch(8ENF-T)  
999 18<sup>th</sup> Street Suite 300  
Denver, Colorado 80202-2466  
Telephone (800)227-8917 X 6203 or (303) 312-6203

#### **V. GENERAL PROVISIONS**

1. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. § 141.1 et seq., or the Act, which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.
2. Violation of any term of this Order may subject the Respondent to a civil penalty of not to exceed \$15,000 for each day in which such violation occurs or failure to comply continues.
3. Violation of any requirement of the Act or its implementing regulations instituted under section 1414(b), 42 U.S.C. § 300g-3(b), may subject Respondent to a civil penalty of not more than \$27,500 per day of

violation.

4. The effective date of this Order shall be the date of issuance.

Issued this 6<sup>TH</sup> day of March, 2003.

**SIGNED**

\_\_\_\_\_  
Diane L. Sipe, Director  
Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

**David J. Janik**

\_\_\_\_\_  
Michael T. Risner, Director  
David J. Janik, Supervisory Attorney  
Legal Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

**IF YOU WOULD LIKE COPIES OF THE ATTACHMENTS, PLEASE CONTACT THE  
REGIONAL HEARING CLERK.**

**THIS DOCUMENT WAS FILED IN THE RHC'S OFFICE ON MARCH 6, 2003.**